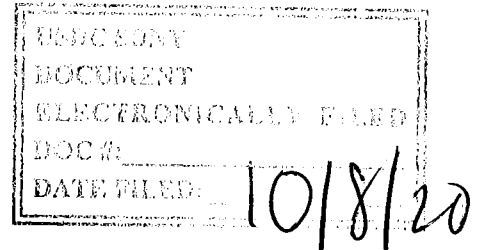


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK-----X  
VINCENT A. BROCK,  
Plaintiff,

v.

DR. AVANZATO and DR. ZAMILUS,  
Defendants.  
-----X**ORDER**

19 CV 5891 (VB)

On September 23, 2020, the Court issued an Opinion and Order granting in part and denying in part defendants' motion to dismiss. (Doc. #48). The Court ordered defendants Dr. Avanzato and Dr. Zamilus to file an answer to the complaint by October 6, 2020. (*Id.*).

On October 6, 2020, defendants filed a suggestion of death noting that on or about April 9, 2020, Dr. Joseph Avanzato had died. (Doc. #51). In addition, defendant Dr. Zamilus filed an answer to the complaint, stating that because Dr. Avanzato had passed away, Dr. Avanzato was "terminat[ed] [] as a party subject to Fed. R. Civ. 25." (Doc. #53 n.1).

However, a Section 1983 claim survives the death of a defendant. *See Barrett v. United States*, 651 F. Supp. 604, 605-06 (S.D.N.Y. 1986).

In addition, Fed. R. Civ. P. 25(a)(1) provides, "If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed."

Accordingly, it is HEREBY ORDERED that by October 21, 2020, defendants shall file a letter on the ECF docket advising the Court of the process by which they will substitute the estate of Dr. Avanzato as a defendant in this case pursuant to Fed. R. Civ. P. 25(a)(1).

Chambers will mail a copy this Order to plaintiff at the address on the docket.

Dated: October 7, 2020  
White Plains, NY

SO ORDERED:

Vincent L. Briccetti  
United States District Judge